

Congress of the United States
Washington, DC 20515

October 25, 2017

The Honorable Mac Thornberry
Chairman
Committee on Armed Services
2216 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515

The Honorable John McCain
Chairman
Committee on Armed Services
228 Russell Senate Building
U.S. Senate
Washington, DC 20510

The Honorable Adam Smith
Ranking Member
Committee on Armed Services
2216 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515

The Honorable Jack Reed
Ranking Member
Committee on Armed Services
228 Russell Senate Building
U.S. Senate
Washington, DC 20510

Dear Chairman Thornberry, Chairman McCain, Ranking Member Smith, and Ranking Member Reed:

As you work to finalize the conference agreement on H.R. 2810, the *Fiscal Year 2018 National Defense Authorization Act*, we write regarding Section 541 of the House version and Section 543 of the Senate version of the bill. These provisions, which are diametrically opposed, would codify the terms under which U.S. service academy graduates may pursue professional sports opportunities.

For the reasons set forth below, we urge you to craft a compromise provision that would codify the longstanding, nearly-uninterrupted Department of Defense policy on this subject, which was recently reaffirmed by Secretary of Defense James Mattis. We have enclosed draft language for your consideration.

An alternative approach is for the conference agreement to authorize a study by DOD on the pros and cons of different policy options, and to defer additional congressional action until the study is completed. This would have the equivalent effect of preserving Secretary Mattis' policy until such time as Congress legislates.

Up until now, Congress has left policymaking in this area to the discretion of the Secretary of Defense. The longstanding DOD policy has been to require a service academy graduate to complete at least two years of active commissioned service before he or she can seek approval to pursue a professional sports opportunity. Starting in May 2016, Secretary of Defense Ash Carter changed the policy to allow graduates to join the Selected Reserve and immediately pursue a professional sports career upon graduation. Less than one year later, in April 2017, Secretary Mattis reinstated the pre-existing DOD policy.

This is the backdrop against which the 115th Congress seeks to legislate. Section 541 of the House bill would require a service academy graduate to serve five years on active duty before he or she could pursue a professional sports opportunity. As a practical matter, this would make it nearly impossible for a graduate to participate in professional athletics.

We have profound concerns about the House provision. It represents a dramatic departure from precedent, goes far beyond the well-established policy that Secretary Mattis reinstated, and could have serious practical consequences. Specifically, we worry it may be detrimental to recruitment and morale at the service academies, could undermine efforts to bridge the military-civilian divide through the use of sports ambassadors, and might compromise the overall effectiveness of our officer corps. Adoption of Section 541 would be particularly unfair to current student-athletes at the academies, who enrolled under one set of rules only to see those rules upended. Notably, Section 541 was not debated during subcommittee or full committee markup. A bipartisan floor amendment to strike the provision (and to default to the policy adopted by Secretary Mattis) generated a vigorous, good-faith debate and ultimately obtained 107 votes—46 Republicans and 61 Democrats. See Amendment #6 to H.R. 2810, offered by Reps. Thomas Rooney, Stephanie Murphy, Adam Kinzinger, Sean Patrick Maloney, and Tim Walz (Roll Call #371).

In sharp contrast to Section 541 of the House bill, Section 543 of the Senate bill would codify the DOD policy briefly put in place under Secretary Carter, enabling graduates to join the Selected Reserve and immediately pursue a professional sports career. While we prefer the Senate provision to the House provision, we note that the Senate provision is opposed by the Trump administration, which wrote the following in its Statement of Administration Policy (SAP):

The Administration strongly objects to section 543, which would allow newly commissioned officers graduating from the military service academies, who obtain employment as professional athletes, to forego any active duty service and immediately serve in the Selected Reserve until the completion of their commissioned service obligation. The military service academies exist to develop future officers who enhance the readiness and lethality of the military services. Following graduation from a military service academy, individuals should serve as full-fledged military officers, carrying out the normal work and career expectations of an officer who has received the extraordinary benefits of a taxpayer-funded military academy education.

We believe that codifying the longstanding DOD policy recently reaffirmed by Secretary Mattis—requiring service academy graduates to serve two years on active duty before having the opportunity to pursue a professional sports career—is the appropriate compromise between Section 541 of the House bill and Section 543 of the Senate bill, is not inconsistent with the language of the SAP, and will ensure the continued readiness and lethality of the officer corps.

As noted, in the alternative, the conferees could authorize a comprehensive and careful study on this issue by DOD, defer further congressional action until legislative deliberations can be informed by the results and recommendations of the study, and preserve Secretary Mattis' policy in the interim.

Thank you for your consideration.

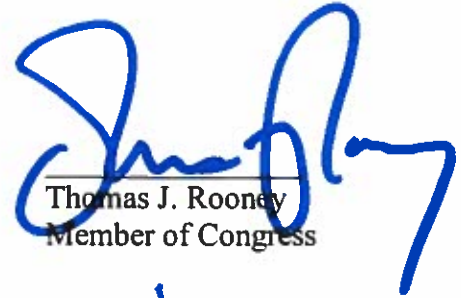


Stephanie Murphy
Member of Congress



Sean Patrick Maloney
Member of Congress

Sincerely,



Thomas J. Rooney
Member of Congress



Steve Womack
Member of Congress